P.F. 60 of 93.

G. R. S. IX-51

*Previous references.*

1892-93.

~~192~~ .

( L.R. )

File No 137 of 92

Serial Nos. 1 to 5

*Later references.*

G.R. 13—92(a-d)

# GENERAL AND REVENUE SECRETARIAT

*Serial Nos.* 1 to 5

M ~~Part~~ B for December 1893.

SUBJECT.

Investigation of claims of Narayan Krishnaji, Kamavisdar of village Pawagad Taluka.

Sent to Translator Mahmud Khan.

W. P. 2283—6115—20,000—11-6-26

Sd/- B.P.

Case

Appeal No. 112 of 1892-93.

Appellant
1. Narrappa
2. Timmappa
of Kanaseradi
Parvigada Taluk
by Mr. Krishna Rao

Facts of the case — Appellant claims the office of Shanbhag of Kanné made in the Parvigada Taluk. Their father Narrappa held the office, and was tried in September 1882 for the offence of criminal breach of trust by a public servant and forgery of the village accounts, and having been convicted of the latter, was dismissed from the office. In December 1882 Timmappa prayed that his eldest son (Narrappa (1st Appellant) might be appointed as Shanbhag, but the Deputy Commissioner ordered on the 18th March 1883 that the case of Timmappa should be deferred for the next, for in his opinion Timmappa had committed a grave offence though for

want of sufficient evidence he was acquitted by the Sessions Judge of the ~~[illegible]~~ offence of Criminal Breach of Trust - Enquiry was then instituted regarding the claims of Timmappa's brothers and other relatives which lasted till November 1885, as most of them were residing in different places in the Coondapur and Bellary districts. In the course of that enquiry, Timmappa gave a deposition (on 25th June 1883) in which he mentioned the names of his several brothers and their sons and stated that they were all divided in interest from him and that any one out of them might be appointed ~~and~~ Nannappa (Applicant) and his cousin Venkataya, presented a joint petition on the 5th August 1885 praying that either of them might be appointed to the office. On the 20th June 1886, the said Venkataya (who is a son of Timmappa's younger brother Appaja (qy.) was, on the recommendation of the Amildar & Aprs and Commissioner, appointed as Shanbhag, and he was held the office. On 15th Dec. 1892, Timmappa's second son Krishnaya

It is true that the Petr's
father was convicted of falsifying
parish records, but the record of his pardon
makes it clear that the charge was
not finally & deliberately dishonesty &
is significant that he was let off
with a fine of £50. The deprivation
of the office is a heavy punishment.
Considering the length of time during
which the deft has been acting, I
am not disposed to order him & to
restore either of the petitioners to office
but I am not prepared to hold that
the family should be permanently
deprived of the right to the office which
that the Ry Commissioners order should
was to the effect "and his sons also
are pronounced disqualified to
hold it" ought to be expunged

C. Fitzmaurice Lyon

I agree only that the proper order
cannot be complied with on the occasion
of a vacancy after the death of a member
Petitioners alone are entitled
to apply

15/11/93

Box
Petn Branch
17/12/93

12

16-2-93

(1)

To

The Dewan of Mysore.

A.S.No 102
92-93

The humble Petition of
Karanapa & Kushappa
Sons of Thimmappa, residing
at Kannaway, & of
Kasaba Gouli of Para
sadalay, Dumber
District most respectfully,

Sheweth:-

1. That their father, & grand father &
other ancestors were the hereditary
Shanbogue, of the village of Kanna
way, of Parasada dalay, from
time immemorial -

2. That about the year, 1883
when the Petrs were young, their
father Thimmappa, while doing the
duties of Shanbogue, was convicted
of Forgery

3. That upon this Conviction, the
then District officer removed him
from the office of Shanbogue -

4

Pet
W 94

30-05-92
28-2-93

MYSORE DEWAN'S OFFICE

PETITION DEPARTMENT

OFFICIAL MEMORANDUM

(3)

The accompanying Petition No. 214/102
dated 12-2-93 received at the
Dewan's Office from Kamakshia and Krishna
Shet. Kamanadi, Barag adu
Taluk, appealing against the
Deputy Commr's order regarding
their ~~right~~ right to the Chowdagi of the
said village.

L.R 137-92-2

is forwarded, together with its ~~annexed~~
enclosures, to the Deputy Commr
Dharwar Dist. for submission
of Dupg with a report on the
facts of the case and on the
petitioners petition in the letter
2 The petition should be
returned,

By Order,

Draft

27/2
Chief Secretary

BANGALORE, 27
Feby 1893.

M. G. C. P. Bangalore.—21-11-92—3,000.

From the Commissioner's Office

L. R. 137-92-3

(General Serial No. 30.)

11241.

1892-93.

From The Commissioner Bangalore District

(4)

To

The Chief Secretary to the ~~Durbar~~ Govt. of Mysore.

Dated 1st

Despatched 3rd April 1893.

Received

Enclosures No. 2 & Record

General No.

No. 808

Chief Secretary's Mr. No. 1194 of the 20th Feby 1893

Reports on petition of Narasappa & his brothers Krishnappa & Ramémáy Village in the Devanhalli Taluk submits the record & also the appeal petition &c &c Enclosure —

Petitioners Venkatesha & Ramappa claim the office of Shanbhag of Ramémadi, Devanhalli Taluk. This petition was received 7th January 1893. It was also sent in personal possession of four months after the Inam Commissioner's visit, but as until the 4th from Bangalore that he never withheld (Arabic) appeal from Devanhalli and ~~received~~ stated that he was ~~not~~ ~~dismissed~~ dismissed from that (18-3-83).

The grounds of appeal, the proceedings before inquiring the facts in the case & the judgment of the Deputy Commissioner are as follows:

Perth Case for hearing Enc none 21 Mr

21/6/93

Solicitor 31-8-93

M. G. C. P. Bangalore.—27-1-93.—5,000.

Translation of Deputy
Commr's order No 257/5
dated 18.3.53:

This judgment has been perused and the copy is herein enclosed. The man (Kinnaiah) was acquitted as the evidence was not sufficient to establish his guilt and justify his conviction in a criminal Court. There is of course no doubt whatever that the accused Kinnaiah did commit "dacoity". For this reason he is dismissed from the office and his sons also are pronounced disqualified to hold it.

There is no reason to transfer the office

to his fellow shanbhog
Narasingappa. Thimmappa's
younger brother Secappa
another named Varadappa,
and the sons of two
others, Rama and Venkata
- raya have appeared.
Enquire into the "links"
(claims) and qualifi
- cations of these persons
and submit a separate
report ~~regarding~~ stating
such as to who may be appointed.

Sd/ P. N. Krishna Murthi
18.3.83
Parvathi

2 3530
D 25

In the Court of Second Class Magistrate
Chitradurga Second Class Magistrate

Government ——— Prosecutor

Versus

Sannappa ——— Accused

## Judgment

The accused who is calendar of
Kudhagini Village is charged (1) with criminal
breach of trust (Section 409 I.P.C.) for having
misappropriated a sum of Rs 10 to be alleged
have been paid to him by Subbaraya (PW Present
witness) on account of Government Kundayinne
due by the (Subbaraya) father Bheemappa
and (2) with forging a Government receipt

2. In regard to the 1st charge the witnesses
of the alleged payment are Subbaraya —
himself, and the said Gundappa —
Subbaraya when examined in the Magistrate
in April last, was not able to remember
whether he had the money to the accused
or to the father. And he now admits he
has moreover, produced the receipt and said
account book, but it remains evident
that the alleged payment was entered
therein. The father did not come to the

Court

but, he says, till after the money had been paid and the receipt (Ex B) was signed by accused and he did not credit his statement that at his request, accused returned him cash in which the money was paid to him, in order that the money to him - change he did not count it -

3. It is in evidence and is admitted by accused that he was in debt to Govt, and it do not doubt that, as stated by the accused, he accused was under pressure from him, induced to undertake to pay this Govt. Government dues to the amount of Rs 10, and to grant him the receipt which was entered in the paper 03-

4. It is possible that accused did at the time mean to pay the money to the Government Treasury, but as a fact, he did not do so, and when in the last official year (1883-84) he finished, as required, a basti patti (cash statement account) for his village he showed the sum of Rs 10 as still due by Kubla Pod-

5. The evidence as to the accused having confessed with Shubhan - i.e. Primary's Kuka account (ledger) is quite clear. In the examination before the Committing Magistrate (Ex 4) indeed, he does not deny that he

was known ceased and that for the ultimate action of the accused, the Government would have been defrauded out of the substantial profits of the Bank which should accrue a sum of money which not yet accounted for without being accounted for —

11. The act of forgery in conjunction with the Government record &c &c in the manner shown does not amount to murder although a grave offence but there are mitigating circumstances which go to shew that he was coerced by Subba Row, with threats of enforcing a decree he had obtained against him (accused) into consenting to take over Subba Row's debt to the Government, & that by taking from him he purchased the Khata account only in the manner shown & which he after the Civil Court decree, voluntarily rectified — the act was one of retribution to Government but [illegible] Subba Row) —

12. The accused is a man advanced in years, and having regard to his unblemished character, a moderate fine will be an adequate punishment for his offence.

I do not concur with the above finding that the accused Linnappa is not guilty of the above offence in terms of the Criminal Procedure Code the offence of the Breach of Trust by a public servant, punishable under Section

Section 9 Indian Penal Code, and the Court
acquits him on that charge.

The Court convicts the accused
finds that the accused Sunnakkah is
guilty of the offence specified in the
2nd charge, viz: that he has Committed
the offence of Forgery with the intent to commit
an offence punishable under section
467 of the Indian Penal Code, and the
Court sentences that the said Sunnakkah
do pay a fine of Rs. 50/-, Fifty, and in
default of payment, to suffer simple
imprisonment for six months.

Kurunegala
7th Feb, 1882

Passed Sentence
Police Judge

"Copy"

Deputy Comm

RLA

Before the Government of *His Highness* the Maharaja of Mysore.

27

Appeal No. 102 of 1892-93

5

Appellant. Vs. Respondent.

1. Ramappa
2. Krishnappa
of Kammeredi
Paragnda Talak
by m^r Krishna Murti

~~Decision~~

L.R. 137-92-4

Facts of the case

Appellants claim the Office of Kambliay of Kammeredi in the Paragnda Talak. Their father Timmappa held the Office, but was tried in September 1892 for the offences of criminal breach of trust by a public servant and forgery of the village accounts, and having been convicted of the latter, was dismissed from the Office. In December 1892, Timmappa prayed that his

select con Nannaffra (the appellant) might be appointed as Assembly, but the Deputy Commissioner ordered, on the 18th March 1833, that the case of Jimmaffra should be deferred of the Court, for, in his opinion, Jimmaffra had committed a grave offence & ought to for want of sufficient evidence he was acquitted by the Learning Judge of the offence of Criminal Breach of Contract. Enquiry was then instituted regarding the claims of Jimmaffra's brothers and other relations, which lasted till November 1836, as most of them were residing in different places in the Nuntafur and Bellary Districts. In the course of that

87

were passed in Mem — till 15th December 1892, and that the order of 1883 was wrong, as Timmappa had been acquitted by the Sessions Judge of Criminal breach of trust. It was elicited that Timmappa is now alive.

Decision

The conviction of the appellants' father Timmappa for having forged, and tampered with Government Records, was upheld and confirmed, and the offence was a very serious one affecting, as it did, his competence and trustworthiness for the responsible office of Shanbhog. So far back as March 1883, the father was dismissed from office and his sons ~~also~~ were also pronounced

disqualified to hold it.
The 1st appellant attempted,
in 1885, to regain the
office but failed. The
present application is
from 1st appellant and
his brothers, the 2nd appellant
who was a minor in 1885.
The Government declines
to entertain this application,
more especially as appellant's
father is still alive,
but on the occurrence
of a vacancy after the
death of Tirumalappa,
appellant's claim will
be considered.

By order,

Recd 21/11

Secy.
1893.

Jt Chief Secretary

Copy to the Deputy Commr
Tumkur District with the
record received with his No 808
dated 1st April 1893.

By order,

Recd 21/11

Jt Chief Secretary

R2-4/12

Recd 21/11

Forwarding

(2nd appellant) prayed that he might be appointed to the office but the Deputy Commr declined to interfere with his predecessor's order. Krishnappa and his brother Narnappa have jointly preferred this appeal against that order.

At the hearing it was urged that the order of 1883 had been passed without any notice to the appellants, that the appellants were then minors and their father did not protect their interests, that the 1st appellant subsequently made several applns but no definite orders were passed on them till 15th Decr 1892, and that the order of 1883 was wrong as Timmappa had been acquitted by the Sessions Judge of Criminal breach of trust. It was elicited that Timmappa is now alive.

Decn. The ~~1st~~ committing of the applt's father Timmappa for breach of trust and [illegible] was upheld and confirmed, and the offence was a very serious one affecting as it did his competency [illegible] for the responsible office of Shanbog

So far back as March
1884 ~~the~~ the father
~~dear~~ was dismissed
from office and his
sons were also pensioned
disqualified to hold -
The 1st appl. attempted,
in 1885 began the
Wm but failed - The
second application
is from 1st appl and
his brother, the 2d appl,
who was a minor
in 1885 - The 2d
declines to entertain
this application more
especially as appl
Father is still alive
but as
the decease
of a relative
after the death
of the father appl
1st appl. claims all
the credit

(No. 32.)

1893.

(2)

No. 2141

Name of Petitioner. Narnappa & Krishn
sons of Timmappa

Village. Kannamadi

Taluk. Pavagada

District. Tumkur

Date of Arzi. 12. 2. 93

Date of Receipt. 17. 2. 93

Date of Disposal.

No. of Enclosures. 1

ABSTRACT.

Petitioners are the hereditary
hakdars to the Shanbhogi of
Kannamâdi. In 1883, while Petrs were still
father, Timmappa being convicted
of forgery was removed from
the office of Shanbhog, and
a gumastâ was appointed
in his place by Govt—

Petitioners requested the
Dy Commr to restore the office
to them He issued to them
endorsement No 113 of 15 12.
which is as follows:—

The Dy Comm's endorsement
No 257 of 18.3.83 which you

Mysore Govt. Central Press Bangalore—7-9-92—1000

Criminal case
to add Rule—

Camp Office
Copy of order produced
herein.

Roll for proceedings, with
record
OR

L.R. 137-92-1

4. That a Gumasta was appointed by the Govt. The Gumasta was doing the duties from the year 1883 upto 1886. Then Shalu Noyakka was appointed who is now doing the duties. The petitioners do not know, they thinks under what condition, he was appointed by the Govt.

5. That the petitioners being the natural sons of Thimmakka, & the Huzz having vested in them by Law, they have been repeatedly petitioning the District-officers, to restore the offices to them. But no favourable order was passed till the 15th Dec: last, the Deputy Commissioner of Dumbuspaned the order herein passed, rejecting their petitions.

6. That the said order is not found in Law & Custom and with the usage prevailing in the Province.

Your Petitioners most respectfully pray, that the Govt. may be pleased to restore the offices of Shanbogi of Kanna-Nadu Village & Pargana Dalvoy.

And your Petitioners shall ever pray.

Krishna Murthi
Advocate for Petrs.

12-2-93

Pet
10 94

20-0392
28-2-93

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

(3)

The accompanying Petition No. 2141/102
dated 12—2—93 received at the
Dewan's Office from Nannappa and Krish-
-na, Kannamedi, Pavugada
Taluk, appealing against the
Deputy Commr's order regarding
their ~~claim~~ to the Shanbogue of the
said village,

L.R. 137-92-2

is forwarded, together with its ~~one~~
enclosures, to the Deputy Commr
Tumkur Dist for submission
of Progs with a report on the
facts of the case and on the
points taken in the petn
2 The Petition should be
returned.

By Order,

Draft

27/2
Chief Secretary.

BANGALORE, 24 Febr 1893.

B. Rice

M. G. C. P. Bangalore.—21-11-92—3,000.

From the Dewan's No 808 3/4 of 93

Tumkur District
No: 808 Deputy Commissioner's Office
Camp Lettihalli, 1st April 1893.

To, 6

The Chief Secretary to the (4)
Government of Mysore

Sir,

Referring to your official memo=randum No: 1094 of the 27th February 1893, forwarding for report with pro=ceedings the petition of Naranappa and his brother Krishnappa of Kamé=médy Village in the Pavagada Taluk, I have the honor to state as follows:—

2. Theimmappa, father of the petition=ers, was the Shanbogue of the said Village of Kamémédy up to the year 1882. About the latter part of the year, he was accused of having mis=appropriated Government money and forged Government records. But he was acquitted of the first charge and convicted of the latter by the Nagar divi=sion Sessions Judge on the 7th September 1882 in Chitaldrug Sessions Case No: 14 of 1882 and sentenced to a fine of 50/- Rupees. Upon this the then Deputy Commis=sr Mr. Krishna Moorty Row in his order

Order No: 257 of the 1st March 1883 to the Shanbogue of Pavagada dismissed the convicted Shanbogue on the ground that though he was acquitted of the charge of Criminal breach of trust for want of sufficient evidence for a Criminal Conviction still there was no doubt of his guilt. He further ordered that his sons should also be deprived of the office, and one of the Cousins appointed. Accordingly the present Shanbogue Venkatarayappa, who is the nephew of the dismissed man, was appointed in order No: 100 of the 20th June 1886.

3. The petitioners appealed to me against this order on the 15th December 1892 and I said I could not interfere with it, and accordingly issued Endorsement No: 113 of 15th idem now appealed against —.

4. The record of the case is herewith submitted as also the appeal petition and its Enclosure —.

I have the honorable,
Sir,
Your most obedient servant
M K Venkatarama Iyer
Deputy Commissioner

Translation of Anilda
Ekilla No. 959 dated 20th
January 1883.

× × ×
× × ×

The forging of accounts does not appear to have been included with the offences mentioned in the ~~above~~ said circular ~~order~~, as entailing forfeiture of claims to hereditary offices. Hence it is ~~not~~ doubtful whether or not the offence of forgery ~~from~~ of which Shanbhog Thimmappa was convicted, is one which can be supposed to entail forfeiture of the claims of the said Thimmappa.

Sons and other members of his family, to their hereditary office.

The above order of the Deputy Commr merely directs that a competent person should be recommended for the Shanbhogi office, and it is not clear as to who should be recommended.

As I am therefore doubtful as to whom I should select and recommend for the post — whether I should select one from Shanbog Thimmappa's family viz his sons &c or from among the said Thimmappa's divided "dāyadees" or other "hukdars" — I submit the matter for your orders.

× ×

Sd/ Anilodar
(in mahratta)

Pkh

be prefixed the figure 1 to certain figures in the Khate for Balundhaniya (1878-79) Ex H, in order to raise the sums by Rs 100 - the deficient sum.

6. The nature of the fraud can be explained briefly - In Bheemappa's Khate for Sawara (Ex J), the balance due at the close of the year is entered as Rs 158-2-0. It was in the following year, Balundhaniya (1878-79) that the transaction already referred to took place between Subbarao & accused. The actual date was 26th June 1878. In accordance with that arrangement, as is evident, the sum of Rs 100 was deducted from the total for that year, and the balance at the close of the year was reduced to Rs 58-2-0. It is to these figures & to them connected with them, that the figures 1 (in Canarese) has been prefixed so as to give the additional Rs 100-

7. The accused's explanation before this Court is that he did add the figure 1 in the several instances, but this was done at the time, after referring to the account finding the deficiency of Rs 100

8. Opposed to this however is the fact that the

Khake of Pramathi (1879-80) (Ex I) shows an opening balance of Rs 582-2- and not of Rs 158-2-. and it is thus evident made that the alteration to Ex A was made at some subsequent period

9. It is further evident from the Jamabundy Sakka (Ex 6) which was prepared during the Jamabundy of Pramathi that there was no sum of Rs 100 due from Bheemappah Subba Row for Pramathi - the amount of Kundayum due for Dewara is there shown as Rs 37-8-. & this with other sums was remitted, it appears, in Consequence of the famine -

10. The fraud if so plain was erected in against Subba Row, who though a Shanbog, was satisfied by reference to his own Khake, that the accused was bound to his Engagement - the accused moreover furnished him with a Receipt Book in the printed form, in which the items Composing Rs 100 are entered in accused's own handwriting, as alleged by Subba Row & not denied by accused - It is not unprobable that Subba Row was fully aware that accused had not kept to his part of the Engagement by paying his Government dues to Govt, for as a Shanbog, he could have readily ascertained whether his remittance was or was not made - His responsibility had

113

that enquiry, Timmappa gave a deposition (on 26th June 1883) in which he mentioned the names of his several brothers and their sons and stated that they were all divided in interest from him and that any one out of them might be appointed. Ramappa (1st appellant and his cousin Venkabiraya presented a joint petition on the 15th August 1885 praying that either of them might be appointed to the office. On the 20th June 1886, the said Venkabiraya (who is a son of Timmappa's younger brother Appajaiya) was, on the recommendation of the Amildar and Assistant Commissioner

appointed as Shanbhog, and he now holds the office. 30

On 15th December 1892, Tirumappa's second son Krishnappa (2d appellant) prayed that he might be appointed to the office, but the Deputy Commissioner declined to interfere with his predecessor's order. Krishnappa and his brother Ramappa have jointly preferred this appeal against that order

2. At the hearing it was urged that the order of 1883 had been passed without any notice to the appellants, that the appellants were then minors and their fathers did not protect their interests, that the 1st appellant subsequently made several applications but no definite orders

No. 2141

MYSORE DEWAN'S OFFICE,
PETITION DEPARTMENT,
2nd December 1893

33

(6)

Endorsement granted to Narnappa & Krishnappa of Kannamadu, Sarugodu Taluk

in reply to their Petition Registered No. 141 dated 12 Feb. 1893 appealing against the Dy Commrs order rejecting their claim to the Office of Shanbhog of the village

Petitioner~~s~~ are informed that their application for the office, submitted during the life time of their father Timmappa who was dismissed for the offence of forging Govt records, cannot be entertained, but that on the occurrence of a vacancy after his death their claim will be considered

L.R. 137-92-5

2/12/93

Draft

4/12

"By Order"

for Chief Secretary.

Mysore Govt. Central Press, Bangalore.—9-2-93—2000.